

## REMARKS

In accordance with the foregoing, claims 1 and 31 have been amended. No new matter is being presented, and approval and entry are respectfully requested.

Claims 1, 6-9, 11, 12, 17-20, 22-25 and 28-37 are pending and under consideration.

Claims 1 and 31 were objected to. Applicants respectfully submit that the amendments to claims 1 and 31 overcome the objections.

Claims 1, 6, 9, 11, 12, 17, 20, 22-25, 29, and 30 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kim et al. (U.S. 2002/0136132 – hereinafter Kim '132) in view of Oohchida et al., (US 6,584,060 – hereinafter Oohchida). The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicants traverse this rejection and respectfully request reconsideration.

Claims 7, 8, 18, 19, 31, and 32 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kim '132 in view of Oohchida, and in further view of Takahashi (U.S. 6,301,216 – hereinafter Takahashi). The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicants traverse this rejection and respectfully request reconsideration.

Claim 28 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Kim '132 in view of Oohchida, and in further view of Kim et al. (U.S. 6,337,841 – hereinafter Kim '841). The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicants traverse this rejection and respectfully request reconsideration.

Claims 33-36 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kim '132 in view of Oohchida, in view of Takahashi, and further in view of Kim '841. The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicants traverse this rejection and respectfully request reconsideration.

Claim 37 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Kim '132 in view of Oohchida, in view of Takahashi, in view of Kim '841, and further in view of Tajiri (U.S. 6,072,607 - hereinafter Tajiri). The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicants traverse this rejection and respectfully request reconsideration.

Claims 1, 6, 7, 8, 9, 11, 12, 17, 18, 19, 20, and 22-25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Park (U.S.2001/0043522 - hereinafter Park) in view of

Oohchida. The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicants traverse this rejection and respectfully request reconsideration.

Claims 28, 30, and 31 stand under 35 U.S.C. §103(a) as being unpatentable over Park in view of Oohchida, and further in view of Kim '841. The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicants traverse this rejection and respectfully request reconsideration.

Kim '132 was filed in the U.S. on December 6, 2001, and was published on September 26, 2002. Accordingly, since Applicants have perfected the priority of the subject application by filing a certified translation of the Priority document herewith, Kim '132 appears to qualify as prior art only under 35 U.S.C. §102(e)(1). In addition, it is noted that Kim '132 was commonly owned with the instant application at the time the invention of the instant application was made. Under 35 U.S.C. §103(c), "[s]ubject matter developed by another person, which qualifies as prior art only under one or more subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person." (MPEP 2146).

As such, Applicants respectfully submit that Kim '132 is not available as prior art for use in an obviousness rejection under 35 U.S.C. §103.

As a general matter, to establish a *prima facie* obviousness rejection, the Examiner needs to provide evidence of the existence of individual elements corresponding to the recited limitations, a motivation to combine the individual elements to create the recited invention, and a reasonable expectation of success. (See MPEP, at 2143 – "[t]he teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure." In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).", and at 2143.03 – "[t]o establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).").

Should the Examiner fail to provide evidence that the individual elements exist in the prior art, or that the motivation exists in the prior art or in the knowledge generally available to one of ordinary skill in the art, then the Examiner has not provided sufficient evidence to maintain a *prima facie* obviousness rejection of the claim. (See MPEP, at 2143.03, and 2143.01).

Amended, independent claim 1 recites: "...wherein the hologram optical element focuses the light emitted from the light source...."

Independent claim 12 recites: "...wherein the hologram optical element focuses the light emitted from the light source...."

And, independent claim 23 recites: "...wherein the hologram optical element focuses the light emitted from the light source...."

The Office Action asserts that the diffraction grating 12 of Park corresponds to the claimed hologram optical element. Applicants respectfully disagree.

In Park, the diffraction grating 12 is selectively movable on the optical axis such that of the 0 order and  $\pm 1$  order lights of the first laser beam of from the first laser diode 11a are incident on the photo-detector 18, the diffraction grating 12 can be moved to allow the 0 order and  $\pm 1$  order lights of the second laser beam of from the second laser diode 11b to be incident on the proper location of the photo-detector 18. (See Park, paragraph 33).

But diffraction grating 12 does not focus the light emitted from the light source as required by the independent claims. Instead, diffraction grating 12 selectively splits each of the first and second laser beams from the first and second laser diodes 11a and 11b, into three rays. (See Park, at paragraph 28). In other words, the diffraction grating creates the 0 order and  $\pm 1$  order lights of the first and second laser beams.

Applicants respectfully submit that Park neither discloses nor suggests "...wherein the hologram optical element focuses the light emitted from the light source...."

Oohchida fails to cure this defect.

Thus, even the combination of Park and Oohchida fails to disclose every element of the claims, arranged as required by the claims.

Accordingly, Applicants respectfully submit that the Office Action has failed to provide evidence that the individual elements exist in the prior art, and thus, the Office Action has not provided sufficient evidence to maintain a prima facie obviousness rejection of the claims.

In view of the foregoing, Applicants respectfully submit that the independent claims patentably define the present invention over the citations of record. Further, the dependent claims should also be allowable for the same reasons as their respective base claims and further due to the additional features that they recite. Separate and individual consideration of the dependent claims is respectfully requested.

In accordance with the foregoing, Applicants respectfully submit that all outstanding objections and rejections have been overcome and/or rendered moot, and further, that all pending claims patentably distinguish over the cited art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

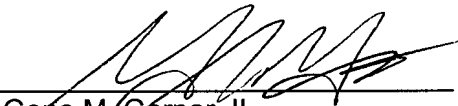
If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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